IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

DISTRICT:

WRIT PETITION NO. 5497 OF 2003

Office Notes,Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders

Mr. S.S.Pakale for the Petitioner.

Mr. A.A.Kumbhakoni for Respondent Nos.1 and 2.

Ms.Vidya S.Mhaispurkar with Mr.D.S. Mhaispurkar for Respondent No.5.

CORAM: S. A. BOBDE, J.

DATED: 25TH OCTOBER, 2004

P.C.:

Heard. Rule.

2. Mr. Kumbhakoni, learned Counsel appears and waives service on behalf of Respondent Nos.1 and 2.

3. Ms. Mhaispurkar, learned Counsel appears and waives service on behalf of Respondent No.5.

4. By consent, Rule made returnable and heard forthwith.

5. By this petition, the terminated teacher has challenged the order dated 31st January, 2003 passed by the College Tribunal dismissing his appeal against termination.

6. Mr. Pakale, learned Counsel for the Petitioner, points out that the decision has been arrived at exparte without hearing the Petitioner. In fact, the learned Counsel has referred to the repeated allegations in paragraph 12 that the Petitioner made an application for adjournment for appointing an advocate. This application was not taken on record and the Tribunal proceeded to decide the matter exparte. I am satisfied that the failure to give an opportunity to the Petitioner to engage an advocate has resulted in the Petitioner not being able to present

his case before the Tribunal and therefore on this ground alone the impugned order is liable to be set aside.

7. Hence, the Impugned order is set aside. The matter is remitted back to the College Tribunal to decide the same in accordance with law. The parties will appear before the College Tribunal on 22nd November, 2004. The College Tribunal shall dispose of the matter as expeditiously as possible and in any case not later than six months from 22nd November, 2004. Rule made absolute in the above terms.

8. No order as to costs.

Sd/-

(S. A. BOBDE, J.)